clearly implied declaration that the contract was made with reference to the law of England would have the same effect as the insertion of an agreement to arbitrate. Conversely it follows that if an agreement of that kind inserted *in ipsis verbis* would be ineffective because forbidden by the law, an insertion of the same matter under the name of the law of England could have no greater effect. The difficulty of the courts seems to have arisen from a failure to note that though, as an aid to interpretation, it may be valuable to know what law the parties intended to have govern the contract, the matter of interpretation must be kept distinct from the effect of the contract after it has been interpreted.

CONSTITUTIONALITY OF CLASSIFICATION OF CITIES. — Two recent decisions in Ohio have prominently brought up again the question which attracted so much attention last year in the Pennsylvania "Ripper Cases," namely, whether by classifying cities a special law can be passed in the guise of a general law. The Ohio Constitution provides that "the General Assembly shall pass no special act giving corporate powers." Since the adoption of the constitution it seems that the legislature of Ohio has classified cities according to population into eleven classes. REV. ST. OH. § 1546 ff. In these classes it has isolated each of the eleven principal cities of the state. The Supreme Court, departing from its previous acquiescence in such legislation, decided that in view of the trivial differences in population between the cities it could not regard the present classification as based on any real or supposed differences in local requirements, and that therefore the laws under it are special and unconstitutional. *State* v. *Jones*, 64 N. E. Rep. 424; *State* v. *Beacom*, 64 N. E. Rep. 427.

It must be admitted that classification of some sort is necessary. This was early recognized by the courts. *State* v. *Brewster*, 39 Oh. St. 653; *Wheeler* v. *Philadelphia*, 77 Pa. St. 338. The great differences of human situation and necessity demand it. A city needs to be treated differently from a village. Moreover a city of twenty thousand persons needs, conceivably, different treatment from one of five hundred thousand. But the question is, how far is this differentiation to be allowed? Can a city of one hundred thousand be honestly viewed as in a different class from one of one hundred and one thousand? The solution would seem to depend upon whether all cities having such a difference of population would *ipso facto* be in a different situation; for logically, classification should be based upon a characteristic of the cities that will of its own nature indicate a substantial difference of need as regards the law to be enacted. This principle has been recognized. *State* v. *Hammer*, 42 N. J. Law 435, 440. But even granting the propriety of the rule, a very difficult question arises in its application, — whether the legislature or the courts shall determine what difference is sufficient. On this point, though most courts assume their power to review in some degree the decision of the legislature, the authorities are in conflict. *Commonwealth* v. *Moir*, 199 Pa. St. 534; *contra*, *Van Riper* v. *Parsons*, 40 N. J. Law 1.

Undoubtedly the decisions in favor of the legislature are correct in holding that the motives of the legislature should in no event be looked into or questioned by the judiciary. But if these constitutional provisions are to be enforced at all, it seems clear that the courts must be allowed to look into the intent of the legislature. They must be allowed to establish whether the

law in question could reasonably have been passed for the class because it was in fact a separate class and could have been thought to need a separate treatment. It is true all presumptions must be made in favor of the legislature; and the mere fact that there is but one city included should not necessarily condemn the law. *Darrow* v. *People*, 8 Colo. 418. But if by its terms in no event could any other city even in the future come within the operation of the act, then clearly the intent for its special effect is revealed, and the law is unconstitutional. *State* v. *Mitchell*, 31 Oh. St. 592; *Devine* v. *Cook County*, 84 Ill. 591. It is the province of the court to determine the intent of the legislature as revealed in the statute and the facts within the ordinary notice of a court. It was thus that the Ohio court reached its decision. The decision is notable as a check to a practice which threatens to nullify such constitutional provisions in almost every state. See in accord, *State* v. *Hammer*, 42 N. J. Law 435; *Bray* v. *Hudson*, 50 N. J. Law 82.

SUIT ON GOVERNMENT CONTRACTS IN FOREIGN COURTS. — A decision of interest to Americans because of its connection with the late Spanish War, has recently been handed down in the House of Lords. A Scotch shipbuilding firm had contracted in 1896 to build four torpedo boat destroyers for the Spanish navy, and suit was brought because of the failure to finish them in contract time, whereby Spain was deprived of the use of them in the war. The contract was made by four naval officials, A, B, C, D, "in the name and representation of His Excellency, the Spanish Minister of Marine, in Madrid, hereinafter called the Spanish Government," on the one part, and the Clydebank Engineering, etc., Co., Ltd., on the other. The action was brought by E, F, G, H, four other officials, in the name of a different minister of marine. The decision was that they were entitled to sue. *Castaneda* v. *Clydebank Engineering, etc., Co., Ltd.*, 18 T. L. R. 773. The *ratio decidendi* seems to have been, that this contract was clearly made for the Spanish State; and on behalf of Spain was signed by the proper officials; and that it must have been within the contemplation of the parties that the incumbents of the offices designated would change. Therefore it was simple justice to allow the present incumbents to sue on the contract.

That one state may sue in the courts of another is too well settled to admit of question. *King of Spain* v. *Hullet*, 1 Cl. & Fin. 333; see 15 HARV. L. REV. 59. There is, however, the question in whose name a suit by a state must be brought. The generally accepted opinion has been that if the state be a monarchy, it should be brought in the name of the sovereign; if a republic, in its own name. *United States* v. *Wagner*, L. R. 2 Ch. App. 582. Bearing this in mind, it seems hard to account for the decision in the present case. It is an elementary principle of the law of contract that suit on a contract can be brought only by parties thereto. The contract was made, on the one hand, for the Minister of Marine; no mention was made of his successors. Admitting, for the moment, that the then Minister of Marine was the true party to the contract, he and he only could sue; and the present plaintiff must be nonsuited, for his proof does not correspond with his pleadings. It is clear, however, that the Minister of Marine did not intend to be bound; and it is equally clear that the defendant company had no wish to accept his personal responsibility. The contract was made through the Minister of Marine for a known principal, the Kingdom of Spain. This